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S E C R E T SECTION 01 OF 03 USNATO 000032

SIPDIS

DEPARTMENT FOR RPM, SCA/A

E.O. 12958: DECL: 01/29/2019

TAGS: PREL PGOV MOPS MARR NATO AF

SUBJECT: RFG: TAKING FORWARD THE AFGHAN-PROPOSED MILITARY
TECHNICAL AGREEMENT AT NATO

REF: A. COMISAF DECEMBER 30 TACTICAL DIRECTIVE

1B. MILITARY TECHNICAL AGREEMENT PROPOSAL (AF/NATO)

USNATO 00000032 001.2 OF 003

Classified By: DCM Walter Andrusyszyn for reasons 1.4 (b) and (d).

11. (S) Summary and Comment: THIS IS AN ACTION REQUEST, see
Para 11. ISAF Senior Civilian Representative Gentilini
briefed NATO Permanent Representatives on January 28. He
argued that NATO should, with caution, view the draft
military technical agreement on revised force procedures,
proposed by the Afghan Defense Ministry in early January, as
a political opportunity. By entering negotiations, he said,
ISAF could demonstrate a willingness to have its troops
comply with jointly agreed but distinctly Afghan terms,
sending a strong signal that ISAF is empowering the Afghan
government and doing everything it can to prevent civilian
casualties. He added that the civilian casualties issue now
dominates every meeting with Afghan officials. Gentilini
cautioned, however, that NATO should not get ahead of a U.S.
bilateral response, since the Afghans approached the U.S.
first with a draft in December. He urged a thorough military
and legal review of draft language, which he said contained
several "problematic" clauses.

12. (S) Gentilini's emphasis on responding to the Afghans
cautiously but in a timely manner, and following the U.S.
lead, is a pragmatic approach. Post thinks a mutually
acceptable military technical agreement would not only
buttress Afghan public support for the international military
presence, but also strengthen the Allies' commitment to the
ISAF mission. Post seeks guidance on NATO taking forward a
response to the draft military technical agreement. End
summary and comment.

Exchange of Draft Military Technical Agreements

13. (S/REL NATO) In early January, Afghan Defense Minister
Wardak passed to ISAF Senior Civilian Representative
Gentilini a draft military technical agreement, which lays
out revised conduct procedures for international forces. The

document was similar to one the Afghans gave the U.S. in December 2008. The U.S. told the Afghans it could be several months before we could provide a response, to give the new Administration time to consider the initiative. In the meantime, ISAF Commander General McKiernan issued a revised Tactical Directive (December 30, ref A), addressing many of the concerns the Afghan government raised about civilian casualties.

¶4. (S/REL NATO) An initial discussion at NATO of the draft military technical agreement generated informal consensus among Allies to move slowly, synchronize a response with the U.S., and seek political, military, and legal advice. The Secretary General (SYG) sought advice from the NATO legal advisor and asked the North Atlantic Council to agree to task military authorities to give their advice. He said he would send the Afghan government a "holding letter" noting that NATO would need time to consider the proposal and work on a response. The SYG planned to ask President Karzai to refrain from politicizing deliberations as an element of his re-election campaign.

Bolstering ISAF on Civilian Casualties and Urging Caution

¶5. (S/REL ISAF) Senior Civilian Representative (SCR) Gentilini provided an update to NATO PermReps on January 28. He said NATO should, with caution, view the draft military technical agreement as a political opportunity to demonstrate ISAF's willingness to have its troops comply with jointly agreed, but distinctly Afghan, terms. While a revision of ISAF force procedures should not precede a U.S. bilateral response, he continued, reaching agreement with the Afghans

USNATO 00000032 002.2 OF 003

could give ISAF a political boost on the issue of civilian casualties. The SCR said this had become the most important issue in Afghanistan, dominating daily Afghan press and every meeting with Afghan officials.

¶6. (S/REL ISAF) Gentilini hailed COMISAF's recent Tactical Directive as "excellent" and said it had already helped reassure the Afghan government and public of ISAF's commitment to avoiding civilian casualties. But he noted that ISAF's directive is perceived as one-sided. Despite his enthusiasm that a mutually acceptable Afghan-ISAF military technical agreement would send a strong public signal that ISAF is taking active steps to prevent civilian casualties, Gentilini advised cautious and assiduous military and legal review of the draft language. He noted that the existing proposal from Defense Minister Wardak contained several "very problematic" clauses.

¶7. (S/REL NATO) Ambassador Volker intervened and agreed that NATO has an opportunity to "put ourselves on the same side" with the Afghan government by considering a revised technical agreement, but stressed that caution must prevail on choosing appropriate language, and NATO efforts should dovetail with those of the U.S.

MOD and MFA Flexible -- Karzai Unhelpful

¶8. (S/REL ISAF) Gentilini conveyed that Wardak and Afghan Foreign Minister Spanta view the Ministry of Defense draft as a flexible starting position. They understand that NATO wants to synchronize its response with the U.S., Gentilini said. Wardak told the SCR that he does not expect a final decision from NATO by the Defense Ministers' meeting in Krakow, Poland, February 19-20 (which Wardak will attend), but would be pleased with an interim response such as a textual counter-proposal from the Allies.

¶9. (S/REL ISAF) Gentilini said Wardak implied that he personally is not pushing an accelerated timeline, but he cannot control Karzai. The Afghan President recently met

with families of reported civilian casualties and told them he would give the U.S. and NATO a month to respond to the draft military technical agreement. The SCR thought Karzai's comments were bluster and that with interim feedback from NATO (and, ideally, the U.S.) the Ministers could probably manage the President's rhetoric. The SYG said he would speak to Karzai on the margins of the Munich Security Conference (February 6-8) to urge his patience as NATO formulates its response.

Alliance-knitting benefits

¶10. (S) The approach Gentilini outlined resonated at NATO, and Norwegian, German, Italian, UK, and Portuguese PermReps voiced support. Short of directly asking the U.S. to initiate bilateral talks on the military technical agreement, Allies were clear that they want the U.S. response to drive NATO's. If the U.S. uses this window of opportunity to negotiate with the Afghans and align draft language to meet our interests, it is likely the Alliance will try to match our text, signaling cohesion and solidarity. This is a good chance to show Allies that the U.S. is taking a cooperative approach and encouraging the Afghan government's principled participation in decision-making.

¶11. (S) ACTION REQUEST: Post seeks guidance on NATO taking forward a response to the draft military technical agreement. Post learned that the international staff is considering a timeline that would have Defense Ministers in Krakow (February) task the Military Committee to prepare its advice in time for a May Chiefs of Defense meeting, enabling Defense Ministers to endorse an agreement as early as June. Post

USNATO 00000032 003.2 OF 003

expects continued weekly discussion of this topic.

VOLKER